

May 18, 2000

H 1580. ENVIRONMENTAL EXCELLENCE AGREEMENT-1. TO ESTABLISH A VOLUNTARY PROGRAM REGARDING ENVIRONMENTAL EXCELLENCE PROGRAM AGREEMENTS. Adds new Article 17 ("Environmental Excellence Program Agreements Act") to GS Ch. 143 creating a voluntary program whereby entities subject to environmental laws may enter agreements with the Secretary of the Dep't of Environment and Natural Resources which may contain provisions superceding otherwise applicable local, regional, or state environmental statutes, rules, or regulations (but not including statutes or ordinances regulating the selection of a location for a new facility, including swine farms, concentrated animal feeding operations, animal waste management systems, and radioactive or hazardous waste sites).

Parties. The parties to the agreement would be the entity which is subject to the environmental laws and either the Secretary or, as designated by the Secretary, the director (or governing board) of a state, regional, or local agency that administers environmental laws to which the entity is subject.

Public notice and comment. The plan put forward for an agreement must identify and notify groups affected by the proposed agreement, such as employees, neighbors, community and civic organizations, governmental agencies, trade and business associations, and environmental organizations. At least 30 days before entering an agreement, the Secretary or director must publish a notice of the proposed agreement in a general circulation newspaper in each county in which a facility of the entity is located, and the public must have 30 days to comment after the notice is published.

Approval of an agreement. To approve an agreement, the Secretary or director must find either that (1) emission reductions or reductions in the discharge of wastes or reductions in environmental risk will achieve better overall environmental results than those required by otherwise applicable environmental regulations or (2) compliance with applicable environmental regulations that is equal to or better than the method of compliance or the method of demonstrating compliance that is required under regular law. This second element may be met by demonstrating an innovative approach or cost-effective results. Secretary or director may require the entity to demonstrate financial ability to comply with the agreement.

Effect of an agreement. An agreement supercedes any environmental laws or regulations identified in the agreement as superceded, and the entity need no longer comply with those superceded laws or regulations, but instead must comply with the terms of the agreement. The Secretary or director may offer incentives including public recognition programs, tax credits, preferred vendor status, streamlined record-keeping monitoring and reporting requirements, extended permit intervals, expedited permit processing, and priority in consideration for grant funds.

Eligibility. An entity owning or operating a facility subject to state or local environmental laws or regulations is eligible to enter an agreement. Trade associations or other authorized representatives of owners or operators of facilities may enter agreements for programmatic coverage of multiple facilities. The bill sets out required elements to be present in the agreement.

Other provisions. Provides for judicial review under the Administrative Procedure Act of the decision to approve, terminate, or modify an agreement. Provides for termination of an agreement for nonperformance. Provides that the act does not create a private cause of action for citizen suits. Authorizes fees with respect to programs under an agreement and the adoption of rules for the agreement program.

Effective July 1, 1999

Intro. by Gibson.

Ref. to Environment	GS 113A
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